

New York State Department of Environmental Conservation  
Division of Environmental Permits, Region 3  
21 South Platt Corners Road, New Paltz, New York 12561-1620  
Phone: (845) 256-3054 FAX: (845) 255-3042  
Website: www.dec.ny.gov



Alexander B. Grannis  
Commissioner

12/17/08

Town of New Windsor Planning Board  
Town Hall  
555 Union Ave.  
New Windsor, NY 12553

Re: Woodlawn Multi-Family Site Plan (Upstate Properties)  
Town: New Windsor County: Orange  
DEC Project No. 3- 3348-00223/1

Dear Planning Bd. Chair

We have reviewed the SEQR lead agency coordination request for the above referenced project which our office received on August 1, 2008. We have no objection to your board/agency assuming lead agency status for this project. Please note our comments below regarding the Department's jurisdiction and resources of concern:

Department Jurisdiction

Based upon our review of the circulated documents, it appears that the project will require the Department permits that are indicated below by a checked box:

- ☒ **Article 15, Protection of Waters:** For physical disturbance to the bed or banks of a protected stream, excavation or fill within a navigable waterbody, or repair/construction of a dam (see enclosed map).
- ☒ **Article 24, Freshwater Wetlands:** For physical disturbance proposed within or near State-designated Freshwater Wetland C0-5, or its 100-foot adjacent area (see enclosed map). If the project sponsors have not already done so, they should contact the Department to have the wetland boundary field inspected and validated by DEC staff, as noted in the enclosed sheet entitled "Delineating and Surveying Freshwater Wetland Boundaries". The applicant will be required by DEC to demonstrate that the project meets the permit issuance standards contained in the Freshwater Wetland Permit Requirements Regulations (6 NYCRR Part 663.5; copy available upon request or on-line at "[www.dec.state.ny.us/website/regs/index.html](http://www.dec.state.ny.us/website/regs/index.html)"). Please also note our recommendation to add a note to the project plans as indicated in the enclosed sheet entitled "Notice to Local Governments, Project Sponsors, and Applicants".
- ☒ **Compliance with the SPDES General Permit for Stormwater Discharges from Construction Activities:** For the proposed disturbance of over 1 acre of land. When other DEC permits are required, the sponsor must provide a copy of the required Stormwater Pollution Prevention Plan (SPPP) with their permit application for DEC review and approval. Authorization for coverage under the SPDES General Permit is not granted until approval of the SPPP and issuance of any other necessary DEC permits.
- ☒ **Other:** Water Quality Certification for Fill in Federal wetlands.
- ☐ **Other:** \_\_\_\_\_

Date: 12/8/08

By copy of this letter, we are advising project representatives of the potential need for these permits. It is possible that the New York State Department of Environmental Conservation permit requirements noted above may change based upon additional information received or as project modifications occur.

Additional Comments

In addition to the permit requirements noted above, the resources that are indicated below by a checked box should be evaluated during the review of this project under SEQR:

- ☐ **Threatened & Endangered Species:** According to Department records, the following state-listed threatened or endangered species has(have) been recorded within or near the project site:

Species: \_\_\_\_\_ NYS Status: \_\_\_\_\_

Species: \_\_\_\_\_ NYS Status: \_\_\_\_\_

The potential impacts of the proposed project on this(these) species should be fully evaluated during the review of the project pursuant to SEQR. In addition, project modifications may be needed to adequately mitigate any potential impacts identified. For further guidance on this matter, please contact the undersigned analyst.

- ☐ **Cultural Resources:** We have reviewed the statewide inventory of archaeological resources maintained by the New York State Museum and the New York State Office of Parks, Recreation, and Historic Preservation. These records indicate that the project is located within an area considered to be sensitive with regard to archaeological resources. Therefore, the DEC review of the project will require preparation of a cultural resources assessment and the review of the New York State Office of Parks, Recreation and Historic Preservation.

- ☒ **Other:**

See attached Notice of Incomplete Application  
copied to Planning Board on 1/24/08.

Questions pertaining to the Department's jurisdiction or related matters should be directed to the undersigned analyst assigned to the project. Please refer to the DEC project number identified above in all correspondence to the Department. Thank you.

Sincerely,

Scott Ballar

Division of Environmental Permits  
(845) 256- 3055

- ☒ Enclosures as Indicated

cc: Project Sponsor (w/enclosures):

I. Halberthal, Upstate Properties LLC  
M. Sheffield, JK Consulting

# New York State Department of Environmental Conservation

## Region 3, Division of Environmental Permits

21 South Putt Corners Road, New Paltz, NY 12561-1696

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Alexander B. Grannis  
Commissioner

January 24, 2008

Matthew Sheffield  
JL Consulting, PLLC  
67 Brookside Avenue  
Chester, New York 10918

Re: DEC Application No. 3-3348-00223/00001  
Woodlawn Proposed Condominium Development -  
Access Road Within Freshwater Wetland CO-5 (Class III)  
Town of New Windsor, Orange County

### **NOTICE OF INCOMPLETE APPLICATION**

Dear Mr. Sheffield:

We were copied on a letter transmitted by your office January 15, 2008 to the NYS Office of Parks, Recreation and Historic Preservation (OPRHP), requesting review of the Phase III Data Recovery proposal for this project. While our receipt of the copied correspondence does not constitute a resubmission to the Department, we wish to take this opportunity to advise you of the current status of DEC review of the Woodlawn Subdivision proposal, which is comprised of a total of 115 proposed condominium units with associated infrastructure and facilities on an approximate 75-acre parcel.

First, please note that Mr. Larry Biegel has retired from State service; the undersigned analyst is now assigned review of this project. Our review of application materials submitted to date include submissions received August 23, 2006, October 27, 2006, November 30, 2006, and January 16, 2008. In response to these submissions, the Department has transmitted two *Notices of Incomplete Application* prepared by Mr. Biegel (Notices dated 10/2/06 and 1/22/07, respectively - copy of each attached). Outstanding items of incompleteness, as noted in Mr. Biegel's Notice of 1/22/07, include submission of documentation showing resolution of the SEQR review conducted by the Town of New Windsor and submission of a Stormwater Pollution Prevention Plan (SWPPP) which conforms to the SPDES General Permit for Stormwater Discharges Associated with Construction Activities (GP-02-01). We continue to await submission of those items; therefore, your application remains incomplete. No further action can be taken on the application until the information requested above is received.

Further, based upon our understanding of the project and upon discussions Mr. Lawrence Torro of your office had in the field with Mr. Doug Gaugler, DEC Wetlands Biologist, we have identified additional information required in order for DEC to continue our review. Per the foregoing, we request that you provide the following information so that application processing may proceed:

1. **Plan Requirements** -Provide a full set of plans revised to show the following:
  - A. A "limits of disturbance" line for all proposed work within Freshwater Wetland CO-5 and its 100 foot adjacent area (include proposed headwall repair, access drive, stormwater outfalls, etc.);

B. The submitted *DEC Wetland Disturbance Plan* does not show the 100 foot adjacent area line of CO-5 on site in its entirety; the detail of the roadway entrance from Forest Hill Drive also has a truncated line: extend adjacent area line(s) southward on plans to the southern and eastern perimeters of the site. Re-label these to show as "100 Foot Adjacent Area" lines rather than "buffer area";

C. Show all streams and ponds located on site clearly on plans. Plans should show the existing stream channel on site in its entirety (stream only shown partially on submitted plans). Show features north of the proposed pond (area shown as blank on submitted plans). Include a *limits of disturbance* line for proposed work within all waterbodies located on site;

D. Grading plans;

E. Detail of the proposed headwall/dam. Show materials of construction;

F. Cross section drawings of all areas of proposed disturbance within the wetland and its 100 foot adjacent area (proposed drive, culverts, Water Quality Pond D, grading for Water Quality Pond A, outfalls from basins, trenches for utility lines, headwall/dam repair, etc.). If other repair or work is proposed within the pond or on its embankments in order to restore the dam, show all such proposed work clearly;

G. Current site conditions within the proposed pond area should be clearly shown on plans (area shown only as cross-hatched on submitted plans). Color photographs of this area would be helpful;

H. All proposed erosion and sediment controls. For proposed dam/headwall repair, show how water will be diverted around the area of work (coffer dams, pump-around, other). For any dewatering of work areas that may be necessary (i.e., areas behind coffer dams), show how turbid water will be treated prior to return to the pond. Turbid water should be directed to a staked haybale enclosure or upland vegetated area prior to its return to the stream or pond;

I. Indicate on plans how disturbed areas will be stabilized and revegetated; and

J. As discussed with Doug Gaugler, show proposed wetland mitigation plantings within stormwater basins.

2. **Freshwater Wetlands** - Freshwater Wetland regulations (6 NYCRR 663) require that disturbances to the wetland and its 100 foot adjacent area first be *avoided*, then *minimized to the maximum practicable extent*, in order to meet permit issuance standards. Therefore, provide a discussion of alternatives which avoid and then reduce proposed disturbance(s) to the wetland and adjacent area (i.e., reduction in width of proposed roadway, redesign roadway to eliminate the 10' wide median, relocate Water Quality Basin D out of adjacent area, other). Provide justification(s) for the chosen alternatives. Provide justification for proposed repair to dam/headwall in pond area. If flooding downstream is an issue, provide explanation of how the proposed dam would alleviate flooding. In addition, provide the following:

A. As discussed with Mr. Gaugler, provide plans showing planting of wetland vegetation within proposed stormwater basins as mitigation for proposed disturbances within CO-5 and its 100 foot adjacent area; and

B. Provide *area of disturbance* (in square feet) for all proposed disturbances within Freshwater Wetland CO-5. Provide also *area of disturbance* (in square feet) for all proposed disturbances within the 100 foot adjacent area of Freshwater Wetland CO-5.

3. **Narrative** - Discuss the following:
  - A. All proposed erosion and sediment controls, including diversion of stream flow and dewatering of work areas; and
  - B. Sequence of construction.
4. **SPDES Stormwater** - As indicated in previous *Notices*, compliance with the SPDES General Permit for Stormwater Discharges from Construction Activities is required for projects that disturb one or more acres of land. Although the actual area of disturbance is not noted in submitted materials, we assume that more than one acre would be disturbed as a result of construction of 115 condominium units with associated roadways. Therefore, a SWPPP must be prepared that conforms with the requirements of this SPDES Stormwater General Permit, and this plan must be submitted along with all required permit applications for concurrent review. Authorization for coverage under the SPDES General Permit is not granted until approval of the SWPPP and issuance of other DEC permit(s).
5. **State Environmental Quality Review Act (SEQR)** - As you are aware, we have previously requested information that would show that the SEQR process has been satisfied by the lead agency, the Town of New Windsor Planning Board. We continue to await submission of such documentation. As an involved agency for the SEQR review of this proposal, we require that you provide copies of all SEQR documents prepared by the lead agency relating to the proposal (long Environmental Assessment Form, lead agency circulation letter(s), determination of significance, etc.). SEQR regulations 6 NYCRR 617 require that SEQR provisions be satisfied before an application can be deemed complete. By copy of this letter, we are advising the Town of New Windsor Planning Board of the need for this SEQR documentation.

**Additional DEC Jurisdictions**

6. **Protection of Waters (Excavation/Fill & Stream Disturbance)** - Please be aware that the unnamed pond on site (in which the headwall repair is proposed) is a NYS protected body of water (Water Index No. H-89-1-P223a; Class B) under Use and Protection of Waters regulations (6 NYCRR Part 608). Therefore, you must also obtain a Protection of Waters permit for any proposed disturbance below mean high water of this pond. We intend to process the Protection of Waters permit application concurrently with the submitted Freshwater Wetlands permit application. In addition, Dam Safety permitting requirements would also be triggered if the proposed dam and/or pond exceeds certain thresholds. Please see the attached *Pond Construction Permitting* sheet for more information.
7. **Water Quality Certification (WQC)** - The pond in which the proposed headwall will be reconstructed is apparently also under the jurisdiction of the Army Corps of Engineers (ACOE) as a federal wetland. Please be aware that a permit will likely be required from the ACOE for any proposed excavation/fill within this or other federally regulated wetlands located on site. We have circulated a copy of your permit application to the ACOE for their review. Note also that if the ACOE issues a permit for the proposed work, a WQC from this Department will also be required. We will process the WQC concurrently with the submitted Freshwater Wetlands permit application.

Mr. Matthew Sheffield  
January 24, 2008  
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Please provide **four copies** of all information requested above. No further action can be taken on the application until all information requested above and in the attached *Notices* is received. Please also be aware that no construction may commence at the site until all DEC permits and approvals have been issued.

Please address all future correspondence to me at the address shown above. You may also contact me at (845) 256-3055 to discuss any questions you may have. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott Ballard', written over a horizontal line.

Scott Ballard  
Environmental Analyst

Enclosures: Notice of Incomplete Application dated 10/2/06 (1 page)  
Notice of Incomplete Application dated 1/22/07 (2 pages)  
Pond Construction Permitting sheet (2 pages)

cc w/o enclosures: I. Halberthal - Upstate Properties, LLC  
L. Torro - JL Consulting, PLLC  
D. Gaugler  
ACOE, NY District  
Town of New Windsor Planning Board